

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ONE UNITY INVESTMENT LLC,

§

§

Plaintiff,

§

§

V.

CIVIL ACTION NO. 4:23-cv-2455
(JURY)

AXIS SURPLUS INSURANCE COMPANY,

§

§

Defendant,

§

**PLAINTIFF'S RESPONSE TO AXIS SURPLUS INSURANCE COMPANY'S MOTION
FOR CONTINUANCE**

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW Plaintiff, One Unity Investment, LLC, ("Plaintiff"), Non-Movant herein, and files this Response to Defendant's Motion for Continuance, and for cause would respectfully show unto this Court the following:

I. SUMMARY OF THE ARGUMENT

1. Defendant filed a Motion for Continuance on April 14, 2025, asking this Court to continue the current June 9, 2025 trial setting. Defendant's counsel originally reached out to Plaintiff's counsel via email on March 20, 2025 proposing that the parties move for a continuance in order to schedule mediation for late June or July 2025, or that Defendant will tie the case up in appeals for years before tendering payments to Plaintiff. See April 10, 2025, e-mail from Defendant's counsel, attached hereto as Exhibit A.

II. ARGUMENT AND AUTHORITIES

2. Plaintiff is opposed to the continuance. This case is set for trial. Plaintiff has waited long enough for its day in Court. Numerous depositions have been taken, experts have been designated and there is nothing further that needs to be done or should be allowed in terms of discovery. As opposed to Defendant's counsel Plaintiff does not get renumeration until the conclusion of this

matter and has been waiting almost three years for its day in Court from the time of the loss. All pending motions have been briefed. Plaintiff has requested numerous times for the case to be mediated beginning well over one year ago, but Defendant has rebuffed these efforts each time, until now using it as leverage for further delay of this case. *See* e-mails attached hereto as Exhibit A. Defendant's current position is disingenuous. While Defendant claims to have another trial, this is far from unusual for litigation attorneys. If at the time this case is called to trial, Defendant is actually in another trial, at that time, the Court can postpone the trial of this case. Doing so now is premature and unnecessary. Cases are postponed all the time. This request is premature, unnecessary and causes unneeded delay. If Defendant is interested in mediation, the Court should require mediation within two weeks of this hearing and prior to the current trial setting.

III. CONCLUSION AND PRAYER

WHEREFORE, premises considered, for the reasons set forth herein, Plaintiff asks this Court to deny Defendant's Motion for Continuance and Plaintiff further requests any other relief, at law or in equity, to which Plaintiff may show itself to be justly entitled.

Respectfully submitted,

By: /s/ Jay Scott Simon

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that a true and correct copy *Plaintiff's Response to Defendant's Motion for Continuance* has been forwarded to counsel of record via Certified U.S. Mail, facsimile, hand delivery, or CM/ECF system on this day, April 28, 2025:

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